

# EXHIBIT A

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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NIAGARA MOHAWK POWER CORPORATION,

Plaintiff,

vs

CONSOLIDATED RAIL CORPORATION; THE  
KING SERVICE, INC.; UNITED STATES STEEL  
COMPANY; EDWIN D. KING; LAWRENCE  
KING; RICHARD B. SLOTE; CHEVRON U.S.A.,  
INC.; PORTEC, INC.; and AMERICAN PREMIER  
UNDERWRITERS, INC.;

5:98-CV-1039

Defendants.

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CHEVRON, U.S.A., INC.,

Third-party Plaintiff,

vs

THE COUNTY OF RENSSELAER; and THE COUNTY  
OF RENSSELAER SEWER DISTRICT NO. 1,

Third-party Defendants.

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COUNSEL:

NIAGARA MOHAWK POWER CORPORATION

Plaintiff

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STEPHEN A. PECHENIK, ESQ.

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

On February 24, 2010, the United States Court of Appeals for the Second Circuit issued a decision affirming in part and reversing in part orders of November 6, 2003; March 11, 2004; June 28, 2006; and July 16, 2008. Niagara Mohawk Power Corp. v. Consolidated Rail Corp., 596 F.3d 112, 140 (2d Cir. 2010). The Mandate was issued on March 20, 2010, and was filed in the Northern District of New York on March 23, 2010.

In accordance with the directive of the Second Circuit,<sup>1</sup> it is

ORDERED that

1. The Judgment entered on June 28, 2006, is VACATED;
2. Niagara Mohawk Power Corp.'s ("Niagara Mohawk") claims for contribution against Chevron U.S.A. as to Area 2 and Area 4 are REINSTATED;
3. Niagara Mohawk's claim for contribution against Chevron U.S.A., Inc. ("Chevron") as to Area 3 remains DISMISSED;
4. Niagara Mohawk's claim for contribution against Portec, Inc. as to Area 2 is REINSTATED;

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<sup>1</sup> The Second Circuit held that it was improper to grant summary judgment to King Service, Inc. Thus, the claims against King Service, Inc. would be reinstated. However, a stipulation of dismissal as to all claims against King Service, Inc., and all counterclaims by King Service, Inc. was so ordered and filed on July 8, 2008. (Order, Doc. No. 475.) Accordingly, those claims are not reinstated.

5. Niagara Mohawk's claims for contribution against United States Steel Company ("United States Steel") are REINSTATED;

6. Niagara Mohawk has established its compliance with the National Contingency Plan by virtue of its adherence to the DEC Consent Decree;

7. Niagara Mohawk's claims against the defendants under the New York Navigation Law are REINSTATED only to the extent of the defendants' liability for contribution with regard to costs incurred by Niagara Mohawk to clean up and remove unlawfully discharged petroleum;

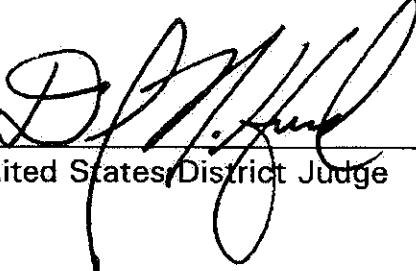
8. Niagara Mohawk's state law claims for contribution, indemnification, and unjust enrichment remain DISMISSED;

9. Chevron's claim against Rensselaer County is REINSTATED; and

10. Chevron's cross-claims for contribution against Portec, Inc. and United States Steel are REINSTATED.

The Clerk of the Court is directed to reinstate Chevron USA Inc.; Portec, Inc.; United States Steel Company; and the County of Rensselaer as parties to this action.

IT IS SO ORDERED.



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United States District Judge

Dated: March 30, 2010  
Utica, New York.